

JUL 22 2005

Attorney Docket: N2-05102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Britton Chance Art Unit: 3737
Serial No.: 09/924,152 Examiner: Eleni Mantis Mercader
Filed: August 7, 2001
Title: EXAMINATION OF A BIOLOGICAL TISSUE USING PHOTON
MIGRATION BETWEEN A PLURALITY OF INPUT AND
DETECTION LOCATIONS

Commissioner for Patents
U.S. Patent and Trademark Office

TERMINAL DISCLAIMER PURSUANT TO 37 CFR §1.321

Sir:

The above-captioned application is a continuation of U.S. Patent Application 09/153,051.

Pursuant to 37 CFR §3.73(b), Non-Invasive Technology, Inc., certifies that it is the assignee of the entire right, title, and interest (and thus is the owner of 100 percent interest) in the above-captioned application by virtue of an assignment from the inventor of the parent US Patent Application 09/153,051, which assignment was recorded in the Patent and Trademark Office at Reel 009620, Frame 0033 on November 23, 1998.

Pursuant to 37 CFR §3.73(b), Non-Invasive Technology, Inc., certifies that it is the assignee of the entire right, title, and interest (and thus is the owner of 100 percent interest) in prior US Patent 5,664,574 by virtue of an assignment from the inventor of the US Patent Application 08/320,160 (now US Patent 5,664,574) which assignment was recorded in the Patent and Trademark Office at Reel 007604, Frame 0232 on May 22, 1995.

To obviate a double patenting rejection, the owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of US Patent No. 5,664,574 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant

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application shall be enforceable only for and during such period that it and the US Patent 5,664,574 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Pursuant to filing a Terminal Disclaimer, Applicant hereby authorizes payment of the statutory disclaimer fee, pursuant to 37 CFR §1.20(d), of \$65.00 (small entity).

The undersigned is empowered to act on behalf of the owner, Non-Invasive Technology, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: July 22, 2005 _____



Peter Chance, President
Non-Invasive Technology, Inc.

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Pursuant to filing a Terminal Disclaimer, Applicant hereby authorizes payment of the statutory disclaimer fee, pursuant to 37 CFR §1.20(d), of \$65.00 by charging the fee to Deposit Account No. 50-2196.

Respectfully submitted:



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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the enclosed total of 12 pages including a cover sheet is being facsimile transmitted to the fax number 571-273-8300, in the above-referenced application, to the Patent and Trademark Office on the date shown below.

Typed or Printed Name of Person: Ivan D. Zitkovsky, Reg. No. 37,482

Date:

July 22, 2005

Signing Certification

